

# MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

## INTEROFFICE COMMUNICATION

June 30, 2008

Briefing Memorandum to the NPDES Permit Decision-maker:

Re: Bustorf Dairy-CAFO -- NPDES Permit No. MI0058479  
Permit ID.v: 75845.1

### Briefing Statement and History:

The application for a new NPDES permit from Bustorf Dairy for the Bustorf Dairy facility located at 30430 Longnecker Road, Leonidas, Michigan 49066 has been processed in accordance with Act 451, Public Acts of 1994, as amended, Parts 31 and 41, and the Part 4, Part 8 and Part 21 Rules (Rules 323.1041 through 323.1117, 323.1201 through 323.1221 and 323.2101 through 323.2196 of the Michigan Administrative Code). Staff has determined that the attached decision document is consistent with all applicable state and federal requirements and proposes it for action. Also attached are other informational documents. The public notice for the draft NPDES permit included the notice of the Rule 98 Antidegradation demonstration submitted by the applicant. The initial public notice period was from March 10, 2008, through April 9, 2008. Many requests for a public hearing were received. The permit and a public hearing were public noticed on April 15, 2008, with the hearing held on May 21, 2008, and the comment period was open through May 28, 2008. The public hearing was attended by about eighty persons with thirty-four people providing statements during the hearing. In addition, twenty-four written comments were received during the public comment period.

An evaluation of the application and the Rule 323.1098 Antidegradation demonstration was conducted following the public notice period in order to consider the various comments and documents received. The critical issue in the review of this Antidegradation demonstration was whether important social or economic development and benefits to the area would be forgone, if the new or increased loading of pollutants is not allowed.

This evaluation considered the demonstration submitted by the applicant, and the comments received on the demonstration as part of the public notice of the draft NPDES permit. Overall, the applicant's demonstration of important social and economic benefit is very short, consisting of one page of assertions of social and economic benefits. The applicant provided no supporting documentation, rational or justification for its assertions, except to include 9 pages printed from the US Census Bureau website to support the statistics listed in the one page of the Antidegradation demonstration. There were direct comments on this demonstration provided by the local unit of government (Leonidas Township), three township residents, the Republicans for Environmental Protection, a Professor from WMU, a local business, and the Huron Potawatomi Tribe. All of these commenters provided information to dispute the claims made by the applicant. These comments are summarized below according to the order of appearance in the applicant's demonstration.

1. Assertion: The farm will employ approximately 30-35 people for day to day operation of the farm. This equates to greater than a 5% increase in employment in the area.

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Comments: There was dispute regarding the number of employees and the value of the jobs created. The township felt there would only be 20 – 25 people employed, which is a 2.8% increase. These jobs would be low paying and primarily filled by migrant workers, thus lowering the importance of these jobs to the local community. This will lower the median wage level in the township and replace higher paying jobs and family income at smaller farms.

2. Assertion: Bustorf Dairy creates jobs indirectly at dairy processing plants, grocery stores, trucking companies, and equipment dealers.

Comments: The demonstration fails to mention any of these services that are currently offered in the area. There will be no influence on the existing businesses in the township.

3. Assertion: The farm will provide a long term stable market for local crops to be used as feed for sources for the animals. This will help the area keep a rural character and will preserve open spaces and wildlife habitat.

Comments: This was vigorously disputed by the township and at least seven other commenters, representing local business, residents, Republicans for Environmental Protection, a WMU professor, and the Huron Potawatomi Tribe. There is no documentation provided to support the claims. Hauling the large amount of manure over the township's roads will damage the rural character. Other CAFOs have caused extensive problems with township roads. The township is primarily second homes and retirees, who will see a decline in property values. This will be detrimental to the sustainable tourism market in the area.

4. Assertion: The farm will pay taxes to local and state governments.

Comments: Payment of taxes is a legal requirement, not a benefit. The reduction of property values will cause a loss of taxes. Truck traffic generated by the CAFO will cause additional expense for road maintenance to local governments.

5. Assertion: The farm will provide manure for other farms to use as fertilizer.

Comments: Hauling the manure will cause severe impacts to the township roads. The extensive spreading of manure will reduce property values. This will be detrimental to the local economy of second homes and retirees. This will be detrimental to the sustainable tourism being developed in the township.

### **Conclusion:**

Considerable weight is given to the comments provided by the township. These comments provide information that demonstrates there is considerable disagreement on the validity of the assertions made by the applicant. The comments of the township, representing the residents of the community surrounding the project, clearly show that the township does not consider the demonstration to show that there are important social or economic benefits from this operation.

This is further supported by the comments provided by the residents, local business, WMU professor, Republicans for Environmental Protection, and the Huron Potawatomi Tribe. These comments serve to bolster the claims made by the local unit of government, and demonstrate that they represent a considerable portion of the area.

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Overall, the conclusion is evident that although there may be some social or economic benefit to the area, this benefit is clearly not considered important social or economic benefit. Therefore, the Department determines pursuant to Rule 323.1098(5) that the Antidegradation demonstration failed to show that lowering of water quality is necessary to support important social and economic development in the area and the applicant cannot meet the requirements of Rule 323.1098.

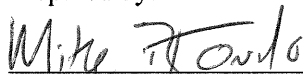
This determination under subrule (5) of Rule 323.1098 is solely for purposes of satisfying state water quality regulations and is not intended to supplant local requirements, including land use or zoning laws. Nor is it to be considered an opportunity to create development policies for local communities.

For more information on public comments, please see the attached Responsiveness Summary.

Recommendation:

Staff recommends denial of NPDES Permit No. MI0058479 to Bustorf Dairy for the Bustorf Dairy facility located at 30430 Longnecker Road, Leonidas, Michigan.

Prepared by:



Mike Bitondo  
Permit Processor

Concurred:



Daniel Dell, Chief  
Lakes Michigan and Superior Permits Unit  
Date: 6-30-08

Attachment(s): Antidegradation Checklist  
Responsiveness Summary of PH  
Public Notices  
1098 Statement  
Proposed Denial